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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,167	11/10/2000	John M. Schlarb	A-6728	3220

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EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,167

Applicant(s)

SCHLARB ET AL.

Examiner

Christopher R Nalevanko

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 23-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a terminal for causing the display of program guide related information, classified in class 725, subclass 43.
- II. Claims 23-38, drawn to method of assigning a category to at least one channel of a plurality of channels and receiving a table relating binary numbers to channels, classified in class 725, subclass 45.
- III. Claims 39-41, drawn to a method of restricting a search and display of available channels, classified in class 725, subclass 27.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as displaying functions and information of an electronic program guide, not just displaying or assigning channel categories. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 2611

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Brook Lafferty on 11/23/2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by LaJoie et al (5,850,218).

Regarding Claim 1, LaJoie shows a television system with at least one category (col. 6 lines 25-46, theme categories) assigned to at least one channel, a terminal for causing the display of program guide related information (fig. 16, col. 5 lines 15-23), the terminal comprising a memory for storing the program guide related information, the program guide related information including channel information related to the assignment of the at least one category to the at least one channel (col. 6 lines 20-45, category information, col. 13 lines 35-65, memory for storing channel information including favorite channel setup), and a processor, coupled to the memory, for causing the display of the program guide related information (col. 13 lines 20-35, CPU).

Regarding Claim 2, LaJoie shows that the processor causes the display in a browse banner of at least a portion of the program guide related information of the at least one channel based on the channel information (col. 15 lines 15-55, col. 16 lines 45-51, col. 19 lines 15-23, information banner).

Regarding Claim 3, LaJoie shows that the browse banner is a state that the processor can enter as a change of state from viewing full screen video (fig. 4, col. 15 lines 15-55, channel browse banner).

Regarding Claim 4, LaJoie shows that the browse banner is a state that the processor can enter as a change of state from viewing full screen display of the program guide (fig. 18, item 410, col. 26 lines 1-25).

Regarding Claim 5, LaJoie shows displaying a category banner indicating at least one category assigned to at least one channel (figs. 20 & 21).

Art Unit: 2611

Regarding Claim 6, LaJoie shows at least two categories and the display of a category banner includes a display of a list of the at least two categories (fig. 20 items 422-430).

Regarding Claim 7, LaJoie shows causing the display of a category banner is a display state that can be entered by a change of state from viewing the browser banner (fig. 18-20, pressing the "B" button invokes the category banner).

Regarding Claim 8, LaJoie shows displaying a graphical representation of the navigational keys used on the user input device to browse the program information displayed (fig. 8).

Regarding Claim 9, LaJoie shows that the processor blocks channel tuning to a channel based on an assigned category (col. 6 lines 5-15, col. 19 lines 30-45, blocking channel based on block channel list or rating).

Regarding Claim 10, LaJoie shows preventing the display of guide related information associate with a channel based on the category (fig. 20, showing only programs that are associated with a certain theme).

Regarding Claim 11, LaJoie shows restricting tuning to channels based on a blocked list or ratings, which are categories (col. 6 lines 5-15, col. 19 lines 30-45, blocking channel based on block channel list or rating). Furthermore, LaJoie shows that while a user is in a certain theme or category, only programs in that category can be tuned (fig. 20 and 21, col. 26 lines 35-67, col. 27 lines 1-18).

Regarding Claim 12, LaJoie shows the ability to enable channel tuning to only the plurality of channels to which the at least one category has been assigned based on an

order of the channels determined by an alpha-numeric listing of current program titles (fig. 22 title browse, col. 27 lines 64-67, col. 28, lines 1-67, title browse). Furthermore, LaJoie shows displaying an alpha-numeric list of a user's favorite channels (fig. 15 item 314, col. 23 lines 1-43).

Regarding Claim 13, LaJoie shows a plurality of categories and a plurality of channels, and the processor restricts tuning to a portion of the channels based on the assigned category (fig. 20, showing only programs that are associated with a certain theme). LaJoie also shows restricting tuning to channels based on a blocked list or ratings, which are categories (col. 6 lines 5-15, col. 19 lines 30-45, blocking channel based on block channel list or rating).

Regarding Claim 14, LaJoie shows that after the listing has been sorted by categories, it is further sorted by time, which is a numeric listing of the categories (fig. 21, sorted by category, then further listed in time sequence).

Regarding Claim 15, LaJoie shows restricting the display of guide related information associate with a channel based on the category (fig. 20, showing only programs that are associated with a certain theme).

Regarding Claim 16, LaJoie shows that after the listing has been sorted by categories, it is further sorted by time, which is a numeric listing of the categories (fig. 21, sorted by category, then further listed in time sequence). LaJoie shows the ability to enable channel tuning to only the plurality of channels to which the at least one category has been assigned based on an order of the channels determined by an alpha-numeric listing of current program titles (fig. 22 title browse, col. 27 lines 64-67, col. 28, lines 1-

67, title browse). Furthermore, LaJoie shows displaying an alpha-numeric list of a user's favorite channels (fig. 15 item 314, col. 23 lines 1-43).

Regarding Claim 17, LaJoie shows displaying information to only a portion of the channels to which a category is assigned and the display of the related information is sorted by the categories (fig. 20, showing only programs that are associated with a certain theme).

Regarding Claim 18, LaJoie shows that the guide related information is sorted by at least one of the alpha-numeric listings of the plurality of categories (fig. 20, showing only programs that are associated with a certain theme).

Regarding Claim 19, LaJoie shows that a channel can be assigned a theme (sports, comedy, etc.), can be put on a blocked list, and can be put on a favorites list (fig. 20, showing only programs that are associated with a certain theme, col. 6 lines 5-15, col. 19 lines 30-45, blocking channel based on block channel list or rating, fig. 15 item 314, col. 23 lines 1-43, favorite channel listing). All of these are categories.

Regarding Claim 20, LaJoie shows a television system with a plurality of channels, a terminal for displaying program guide related information, including channel information, the terminal comprising a memory for storing the program guide related information, including the channel information that indicates at least one category of a plurality of categories (col. 6 lines 25-46, theme categories) is assigned to at least one channel of the plurality of channels (col. 6 lines 20-45, category information, col. 13 lines 35-65, memory for storing channel information including favorite channel setup), and a processor, coupled to the memory, for causing the display of at least a portion of the

Art Unit: 2611

program guide related information for only the at least one channel of the plurality of channels based on the channel information (col. 13 lines 20-35, CPU).

Regarding Claim 21, LaJoie shows a terminal for displaying full screen video and a browse banner of program information (fig. 7), the terminal comprising a memory (col. 6 lines 20-45, category information, col. 13 lines 35-65, memory for storing channel information including favorite channel setup) and a processor (col. 13 lines 20-35, CPU) for displaying the browse banner is a state that the processor can enter as a change of state from viewing full screen display of the program guide (fig. 18, item 410, col. 26 lines 1-25).

Regarding Claim 22, LaJoie shows the ability to display a full screen guide, as well change from banner to the guide (fig. 18). All of the other limitations of the claim have been addressed with regards to Claim 21.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nijima et al U.S. Patent No. 5,903,314 discloses an electrical program guide system and method.

Coleman et al U.S. Patent No. 5,844,620 discloses a method and apparatus for displaying an interactive television program guide.

Art Unit: 2611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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